

REMARKS

I. Status of the Claims

Claims 1, 3-8, 10, 11, 23, 24, 31, 33-45, 47, and 55-70 are pending. Claims 60-71 were withdrawn as directed to non-elected subject matter, but are now presented for examination. Without prejudice or disclaimer, Claims 1, 8, 31, 33, 47, 60, 62, 65, 68, and 70 have been amended and Claims 2, 9, 12-22, 25-30, 32, 46, 48-54, and 71 have been canceled. Exemplary support can be found in the specification and claims as filed. Accordingly, there is no written description issue.

Applicant's undersigned representative wishes to thank the Examiner for her time in discussing the case on July 29, 2010.

II. Amendments

In support of Applicant's Response Under 37 C.F.R. § 1.114 and accompanying Declaration Under 37 C.F.R. § 1.132 filed July 9, 2010, and to advance prosecution, applicants make the foregoing amendments to the claims.

In addition, applicants concurrently submit another Declaration Under 37 C.F.R. § 1.132 ("Deconinck declaration") to further demonstrate that a composition according to the present claims utilizing oxyethylenated fatty alcohols as nonionic surfactants are superior than the compositions of the prior art. As indicated in the attached Deconinck Declaration, comparative composition B, which would otherwise fall within the scope of the disclosure of the PGPUB US 2004/0074015 (the '015 application) application except that it was prepared in the form of oil-in-water emulsion in accordance with the claims, is undesirable as a cosmetic composition for keratin fibers because it did not stay on the hair. See Deconinck Declaration at ¶¶ 7-10. In the Deconinck Declaration, comparative

composition C, which would otherwise fall within the disclosure of U.S. Patent No. 4,927,627 (the '627 patent) patent except that the thickening agent was replaced by the amphiphilic polymer, is undesirable because it dephased after being stored at 23°C for three days. See Deconinck Declaration at ¶¶ 7-10.

Both Compositions B and C employed the amphiphilic polymer and were prepared in the form of oil-in-water emulsion. However, as indicated by the Deconinck Declaration, they are not suitable for cosmetic composition as they either did not have the appropriate viscosity, or dephased after a short period of time. Those results, if not teaching away from using the amphiphilic polymer in an oil-in-water emulsion, at least display that the art with respect to the oil-in-water emulsion is unpredictable when the amphiphilic polymer is included in the composition.

III. Conclusion

In view of the foregoing amendments, Applicant respectfully requests reconsideration of this application and timely allowance of the pending claims.

If the Examiner believes a telephone conference could be useful in resolving any of the outstanding issues, she is respectfully invited to contact Applicant's undersigned counsel at (202) 408-4443.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

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